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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of California-American Water  
Company (U210W) for Approval of the  
Monterey Peninsula Water Supply Project  
and Authorization to Recover All Present and  
Future Costs in Rates.

Application 12-04-019  
(Filed April 23, 2012)

**JOINT COMMENTS ON THE PHASE 2 PROPOSED DECISION**

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Dated: September 1, 2016

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**JOINT COMMENTS ON THE PHASE 2 PROPOSED DECISION**

**I. INTRODUCTION**

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure,<sup>1</sup> California-American Water Company ("California American Water"), the Monterey Peninsula Water Management District ("MPWMD"), and the Monterey Regional Water Pollution Control Agency ("MRWPCA") ("Joint Parties")<sup>2</sup> hereby submit limited comments on the Proposed Decision on the Application of California-American Water Company's Application for Approval of the Monterey Peninsula Supply Project Specifically in Regards to Phase 2 ("PD").

The Joint Parties greatly appreciate the thoughtful effort undertaken by assigned Administrative Law Judge Gary Weatherford to craft and issue the PD so that it may be considered by the Commission at its September 15, 2016 public meeting. The PD reflects timely and careful attention to the facts and the law, including the limitations on

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<sup>1</sup> Unless otherwise stated, all further references to "Rules" are to the Commission's Rules of Practice and Procedure.

<sup>2</sup> Pursuant to Commission Rule 1.8(d), counsel for all Joint Parties other than California American Water have authorized counsel for California American Water to sign these Joint Comments on their behalf.

diversions from the Carmel River and deadlines for compliance placed on California American Water by the State Water Resources Control Board (“SWRCB”) Order 95-10, the Cease and Desist Order (SWRCB Order WR 2009-0060), and the recently amended Cease and Desist Order (SWRCB Order WR 2016-0016). Obtaining the timely PD was a crucial step towards allowing California American Water to take full advantage of two alternative water sources: (1) MPWMD/MRWPCA Pure Water Monterey Groundwater Replenishment Project (“GWR Project”); and (2) Aquifer Storage and Recovery (“ASR”).

As described below, there are only two limited issues in the PD the Joint Parties believe need clarification. First, the Water Purchase Agreement (“WPA”) attached as Appendix C to the PD does not reflect the final agreed-upon changes to the WPA accepted into evidence. The Joint Parties therefore request the WPA attached hereto as Attachment A, which reflects the final edits in Joint Exhibit 10, be included in the final decision, instead of and in place of the WPA attached to the PD at Appendix C. Second, the Joint Parties propose a limited modification to the PD to allow the cost cap on the Monterey Pipeline and Pump Station to be a total of \$50.3 million, instead of separate cost caps of \$46.5 million for the Pipeline and \$3.8 million for the Pump Station. A combined total cost cap for the Monterey Pipeline and Pump Station will permit flexibility, promote administrative efficiencies, and encourage cost savings. Attached hereto as Attachment B is a redlined version of the PD reflecting these proposed minor modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs. In addition, as set forth below, the Joint Parties have identified minor factual misstatements in the text of the PD and include proposed language changes in Attachment B to correct such misstatements.

## II. DISCUSSION

### A. **The Final Conformed Copy of the Water Purchase Agreement Should Replace the Revised Water Purchase Agreement Included As Appendix C To The PD**

The Joint Parties respectfully request that the WPA included as Appendix C to the PD be replaced with the conformed copy of the WPA attached hereto as Attachment A. As the PD correctly states, a “revised WPA was provided in supplemental testimony served on May 19, 2016, and subject to cross-examination at hearing on May 26, 2016. The May 19, 2016 WPA is contained in Appendix C to this decision.”<sup>3</sup> During the May 26, 2016 evidentiary hearing, it was agreed that the Joint Parties could submit, through a late-filed exhibit, an update to the revised WPA provided on May 19, 2016, and that the updated WPA would be received into evidence as Joint Exhibit 10 on June 3, 2016, unless there were objections.<sup>4</sup> On May 31, 2016, the updated WPA was served and no objections were received. Attachment A to these Comments is a conformed copy of the WPA, which reflects the final agreed-upon changes in JE-10. Accordingly, the Joint Parties request the WPA included as Appendix C to the PD be replaced with the WPA attached hereto as Attachment A.

### B. **The PD Should Be Revised To Provide One Cost Cap For The Pump Station and Pipeline, In Place Of Separate Cost Caps**

The estimated cost of the Monterey Pipeline and Pump Station based on construction bids, allocation of incurred and future implementation cost, and contingency is \$46.5 million and \$3.8 million, respectively, for a total cost of \$50.3 million.<sup>5</sup> As stated in the PD’s Findings of Fact, the “Joint Parties propose a cost cap of \$50.3 million with authority to request higher amounts via the advice letter process if actual costs

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<sup>3</sup> PD at p. 7.

<sup>4</sup> Reporter’s Transcript, May 26, 2017, pp. 3312:6-3314:8.

<sup>5</sup> Joint Exhibit 2 (May 9, 2016 Corrected Joint Supplemental Testimony) at p.16:9-13; *see also* Exhibit CA-40, (Dec. 15, 2015 Supplemental Testimony of Richard C. Svindland) at p. 7 of Attachment 1 thereto (providing pipeline and pump station costs).

exceed the cap.”<sup>6</sup> At Conclusion of Law 7, the PD states “[t]he cost cap on the pipeline/pump station project should be \$46.5 million for the pipeline and \$3.8 million for the pump station, with authority for applicant to file a Tier 3 advice letter if costs exceed the cost cap.”<sup>7</sup> As currently worded, it appears the PD is setting separate, individual caps for the Pipeline and Pump Station. The Joint Parties respectfully request the PD be revised to provide one cost cap of \$50.3 million for both the Pipeline and Pump Station in order to promote efficiencies – both administrative and economic.

A joint cost cap of \$50.3 million will permit California American Water to appropriately allocate funds between the projects and file an Advice Letter only if total costs exceed the total cap, saving administrative burdens on the parties and the Commission. This will also avoid the conceivable circumstance of California American Water waiting for resolution of a Tier 3 Advice Letter on one project, while the other project has surplus funds that are not being used. Moreover, imposing separate sub-project cost caps could detract from the ultimate goal of minimizing the total project costs. While California American Water intends to make every effort to complete the Pipeline and Pump Station for less than their respective projected costs, a joint cost cap will promote economic efficiency because it will encourage efforts to save costs on one project, i.e. the Pump Station, so that, if necessary, the savings can be used to complete the other project, i.e. the Pipeline. Thus, the PD should be revised to reflect the Joint Parties’ requested modifications.

#### **C. Minor Misstatements in the PD Should Be Corrected**

The Joint Parties have identified minor misstatements in the text of the PD. The correction of these misstatements will make the PD more factually correct but will not substantively change the PD. First, on page 11 of the PD, in the discussion of the

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<sup>6</sup> PD at p.48 ¶ 42.

<sup>7</sup> PD at p.50 ¶ 7.

Addendum to the GWR Final EIR, the PD inaccurately states that the “the Agency” prepared and approved an Addendum. The Addendum was actually prepared and approved by the District. Second, on page 21 of the PD, the panel of witnesses testifying at the May 26, 2016 hearing incorrectly references MRWMD and should reference MRWPCA. Specific corrections have been included on Attachment B hereto.

### III. CONCLUSION

For the foregoing reasons, the Joint Parties respectfully request that the PD be revised to include the requested modifications set forth in Attachment B to these Comments.

Dated: September 1, 2016

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